

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DENNIS A. ROBUCK,)
)
)
Plaintiff,) Civil Action No. 10-763
v.) Judge Nora Barry Fischer
)
MINE SAFETY APPLIANCES COMPANY,)
)
)
Defendant.)

MEMORANDUM ORDER

Presently before this Court is Plaintiff Dennis A. Robuck's (hereinafter "Plaintiff") Motion to Dismiss and/or Strike Mine Safety Appliances Company's (hereinafter "Defendant") Answer and Affirmative Defenses to Plaintiff's Amended Complaint. (Docket No. [24]). Plaintiff asserts that Defendant's Answer and Affirmative Defenses (Docket No. 19) do not meet the pleading standards as set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554 (2007) and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). (Docket No. 24). Defendant states that its Answer and Affirmative Defenses are in accord with Federal Rule of Civil Procedure 8(b) because Defendant either admits or denies all allegations. (Docket No. 32 at 2). Furthermore, Defendant argues that the *Twombly* pleading standards do not apply to affirmative defenses and, even if they do, Defendant's Affirmative Defenses provide Plaintiff with sufficient notice of the defenses. (Docket No. 32 at 3).

Federal Rule of Civil Procedure 8(b) requires a party to "admit or deny the allegations asserted against it." FED.R.CIV.P. 8(b). Defendant's Answer is sufficient under Rule 8(b) because in each paragraph, Defendant did either admit or deny the allegation. *Romantine v. CH2M Hill Engineers, Inc.*, Civil Action No. 09-973, 2009 WL 3417469 at *1 (W.D. Pa., Oct. 23, 2009).

Moreover, Defendant's Affirmative Defenses sufficiently put Plaintiff on 'fair notice' of the nature of the defenses and the grounds upon which they rest. *Lapic v. MTD Products, Inc.*, Civil Action No. 09-760, 2009 WL 3030305, at *3 (W.D. Pa., Sept. 17, 2009). Finally, the Court acknowledges that the United States Court of Appeals for the Third Circuit has not rendered any decision resolving the issue of whether the *Twombly/Iqbal* pleading standard for complaints also applies to affirmative defenses. *Romantine*, at *2.

Therefore, based on the present state of the law, and having found that Defendant's Answer complies with Rule 8(b) and that Defendant's Affirmative Defenses provide Plaintiff with sufficient notice, IT IS HEREBY ORDERED that Plaintiff's Motion to Dismiss and/or Strike Defendant's Answer and Affirmative Defenses to Plaintiff's Amended Complaint [24] is DENIED.

s/ Nora Barry Fischer
Nora Barry Fischer
United States District Judge

DATED: October 1, 2010
CC/ECF: All counsel of record.